



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,280	01/20/2004	Joanne Peart	02940086CA	6861
30743 7590 08/25/2010 WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C. 11491 SUNSET HILLS ROAD SUITE 340 RESTON, VA 20190				
			EXAMINER	
			ALSTRUM ACEVEDO, JAMES HENRY	
			ART UNIT	PAPER NUMBER
			1616	
			MAIL DATE	DELIVERY MODE
			08/25/2010 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/759,280

**Applicant(s)**

PEART ET AL.

**Examiner**JAMES H. ALSTRUM  
ACEVEDO**Art Unit**

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on BPAI decision mailed May 19, 2010.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 47 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.  
7) ☒ Claim(s) 47 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

#### **DETAILED ACTION**

**Claim 47 is pending.** Claims 43, 46, 48, 50, 52-55, and 57-63 are cancelled by examiner's amendment, as set forth below. The BPAI decision dated May 19, 2010 is noted. No claim amendments, arguments, and/or additional evidence were submitted by Appellants in response to the BPAI decision.

#### ***Allowable Subject Matter***

**Claim 47 is objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Examiner's Amendment***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

(1) Claims 43, 46, 48, 50, 52-55, and 57-63 are cancelled by Examiner's Amendment, pursuant to the guidance in MPEP §§ 1214 .01 [R-3] - 1214.06 [R-3].

***Disposition of the claims after the May 19, 2010 BPAI Decision***

The period under 37 CFR 1.304 for seeking court review of the decision by the Board of Patent Appeals and Interferences rendered May 19, 2010 has expired and no further action has been taken by appellant. The proceedings as to the rejected claims are considered terminated; see 37 CFR 1.197(b).

The application will be passed to issue on allowable claim 47 provided the following formal matters are promptly corrected: claim 47 is rewritten in independent form including all of the limitations of the base claim and any intervening claims. Prosecution is otherwise closed.

Applicant is **required** to make the necessary corrections addressing the outstanding formal matters **within a shortened statutory period set to expire ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this letter to avoid ABANDONMENT of the application. Extensions of time may be granted under 37 CFR 1.136.

***Conclusion***

**Claim 47 is objected. Claims 43, 46, 48, 50, 52-55, and 57-63 are cancelled by Examiner's Amendment. No claims are allowed at this time.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Alstrum-Acevedo whose telephone number is (571) 272-5548. The examiner can normally be reached on M-F, ~10:00-6:00 and Saturdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on (571) 272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/James H Alstrum-Acevedo/  
Patent Examiner, Art Unit 1616  
Technology Center 1600

J.H. Alstrum-Acevedo, Ph.D.